

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

BENJAMIN H. REALTY CORP.

and

**Cases 22-RC-087792 and
22-CA-110689**

**RESIDENTIAL CONSTRUCTION AND GENERAL
SERVICE WORKERS, LABORERS LOCAL 55**

**ORDER GRANTING MOTION TO AMEND COMPLAINT
AND FURTHER NOTICE TO SHOW CAUSE**

On November 13, 2014, the Board issued a Decision, Certification of Representative, and Notice to Show Cause in these proceedings.¹ That Decision provided leave to the General Counsel to amend the complaint on or before November 24, 2014, to conform with the current state of the evidence, including whether the Respondent had agreed to recognize and bargain with the Union after the November 13, 2014 certification of representative issued.

Thereafter, on December 10, 2014, the Respondent filed a motion for reconsideration of the November 13, 2014 Decision, Certification of Representative, and Notice to Show Cause, based on the fact that at the time the Decision issued, the Board had not acted on the Respondent's October 15, 2014 motion to reopen the record in Case 22-RC-087792. By Order dated May 7, 2015, the motion to reopen the record and the motion for reconsideration were denied.

On February 6, 2015, the General Counsel filed a motion to amend the complaint, under Section 102.17 of the Board's Rules and Regulations. The General Counsel states in his motion that the November 24, 2014 date given for amending the

¹ 361 NLRB No. 103.

complaint was not able to be met, but that the amendment is necessary now in light of events that occurred after that date. The General Counsel further asserts that granting this motion to amend would not result in prejudice to any party. The complaint attached to the General Counsel's motion has been amended in relevant part to include the allegations that about January 22, 2015, the Union requested that the Respondent recognize and bargain with it as the exclusive collective-bargaining representative of the unit employees, and that since January 22, 2015, the Respondent refused to do so and continues to refuse to do so.

On February 13, 2015, the Respondent filed an opposition to the General Counsel's motion for leave to amend the complaint, arguing that the motion to amend was premature until the motions to reopen the record and for reconsideration had been ruled on; that the General Counsel had failed to offer any reasonable excuse or special circumstance that would justify missing the November 24, 2014 date provided for amending the complaint; and that the General Counsel's motion to amend was filed pursuant to wrong section of the Board's Rules and Regulations.

Having duly considered the matter,

IT IS ORDERED that the General Counsel's motion to amend the complaint is granted and the complaint is deemed amended as of this date.

IT IS FURTHER ORDERED that the Respondent's answer to the amended complaint is due on or before June 10, 2015.

NOTICE IS GIVEN that cause be shown, in writing, on or before June 17, 2015 (with affidavit of service on the parties to this proceeding), as to why the Board should

not grant the General Counsel's motion for summary judgment. Any briefs or statements in support of the motion shall be filed by the same date.

Dated, Washington, D.C., May 27, 2015.

By direction of the Board:

Gary Shinnars

Executive Secretary